

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

DIANE L. SMITH,

Plaintiff,

VS.

WAL-MART STORES INC,

Defendant.

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CIVIL ACTION NO. C-10-15

ORDER OF REMAND


On February 18, 2010, the Court held an initial pretrial conference in the above-styled action. Prior to the conference, Plaintiff filed a Motion to Remand (D.E. 6) in which she stated that “[t]he amount in controversy does not exceed \$75,000, exclusive of interest and costs,” and “no federal claims have been alleged.” (D.E. 6 at 1-2.) Plaintiff attached an affidavit stating, “[t]he damages that I seek or intend to seek in this lawsuit . . . total less than Seventy-Five Thousand Dollars (\$75,000). I will not ask for an award of more than Seventy-Five Thousand Dollars (\$75,000) in this matter and I agree that I will not accept any award higher than Seventy-Five Thousand Dollars (\$75,000).” (D.E. 6-1 at 2.) Plaintiff also states that “I am not currently asserting – nor will I assert in the future – any federal causes of action in this lawsuit.” (D.E. 6-1 at 3.) Counsel for Plaintiff also stipulated at the initial pretrial conference that Plaintiff will not seek or accept an award of greater than \$75,000, exclusive of interest and costs.

Upon Plaintiff’s affidavit and stipulation that she will not request or accept recovery in excess of \$75,000.00 (exclusive of interest and costs), and pursuant to 28 U.S.C. §§ 1332 and 1447(c), the Court GRANTS Plaintiff’s Motion to Remand (D.E. 6) and ORDERS that this cause be REMANDED to the County Court at Law No. 3, Nueces

County, Texas, where it was originally filed and assigned Cause No. 09-62375-00-0-3.

The Court defers to the state court Plaintiff's request for attorney's fees and costs.

SIGNED and ORDERED this 18th day of February, 2010.



Janis Graham Jack
United States District Judge